



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

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Docket No. F338412

HARLEN SHABSHELOWITZ

Appellant.

v.

**BOARD OF ASSESSORS OF THE
TOWN OF SOMERSET**

Appellee.

DECISION WITH FINDINGS

The assessors' Motion to Dismiss ("Motion") is allowed and the appeal is dismissed for lack of jurisdiction. On the basis of the documents submitted in support of the Motion, and the arguments advanced at the December 5, 2019 hearing of the Motion, the Board finds and rules as follows.

This appeal concerns the fiscal year 2019 assessment of real estate tax in the amount of \$7,519.48 on property located at 14 Anchor Drive in Somerset ("subject property"). The assessors produced payment records from the Treasurer's office showing that the fourth quarter bill in the amount of \$2,095.49, due on May 1, 2019, was not paid until May 28, 2019. The payment records reflect that interest in the amount of \$28.13 was incurred due to the late payment and that the May 28, 2019 payment of \$2,133.62 included the interest charge.

The Board has no jurisdiction over an appeal when: (1) the tax due for the fiscal year exceeds \$5,000; (2) interest is incurred on the tax bill; and (3) the three-year average provision under G.L. c. 59, §§ 64 and 65 is not met. See, e.g. *Massachusetts Inst. Of Tech. v. Assessors of Cambridge*, 422 Mass. 337, 451-52 (1996); *Columbia Pontiac Co. v. Assessors of Boston*, 395 Mass. 1010, 1011 (1985) ("payment of the full amount of the tax due without incurring interest charges is a condition precedent to the board's jurisdiction over an abatement appeal.").

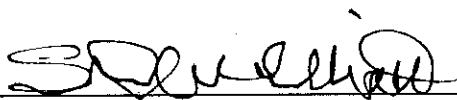
In the present appeal, the tax on the subject property exceeds \$5,000, interest was incurred due to the late payment of the first-quarter bill, and the appellant failed to satisfy the three-year average provision of G.L. c. 59, §§ 64 and 65.

The Board has only that jurisdiction conferred on it by statute. *Stilson v. Assessors of Gloucester*, 385 Mass. 724, 732 (1982). Adherence to the statutory prerequisites is essential "to prosecution of appeal from refusals to abate taxes." *New Bedford Gas & Edison Light Co. v. Assessors of Dartmouth*, 368 Mass. 745, 747 (1975). *Old Colony R. Co. v. Assessors of Quincy*, 305 Mass. 509, 511-12 (1940). The Board cannot waive its jurisdictional requirements. *Id.*

Accordingly, the Motion is allowed, and the appeal is dismissed for lack of jurisdiction. This is a single-member Decision promulgated in accordance with G.L. c. 58A, § 1A and 831 CMR 1.20.

ORDERED ACCORDINGLY

APPELLATE TAX BOARD

By: 
Steven G. Elliott., Commissioner

Attest: 
Clerk of the Board

Date: **DEC - 6 2019**
(Seal)

NOTICE: Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.